



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,529	11/15/2001	Keiichi Yoshida	216086US2PCT	7559

22850 7590 01/17/2006

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

COBANOGLU, DILEK B

ART UNIT PAPER NUMBER

3626

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/926,529

Applicant(s)

YOSHIDA ET AL.

Examiner

Dilek B. Cobanoglu

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 05/06/2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-23 have been examined.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 3, 8, 9, 19, 20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuch (U.S. Patent No. 5,454,721) in view of Scroggie et al. (U.S. Patent Publication No. 2002/0120496 A1).

A. As per claim 1, Kuch discloses a meal advice system for dieters each equipped with remote terminal means capable of sending information about a previous meal eaten and of receiving information about a next meal to be eaten, said system comprising:

- i. a meal advice center having a server linked to a database and linked through a communication network to said remote terminal means to exchange the information about the previous and next meals, said database including (Kuch; col. 7, lines 8-31; the Examiner interprets the central computer 10 to be a form of server as recited)
- ii. a dieter table storing, for each of the individual dieters, an identification code, a network address, and a prescribed nutrient amount

Art Unit: 3626

for each of Food Groups into which foods are categorized according to the nutrients (Kuch; col. 8, lines 15-19 and lines 28-33)

iii. a meal-food table storing the names of the meals and names of foods contained in the meal (Kuch; col. 9, line 65 to col. 10, line 5);

iv. a food-nutrient table storing the names of the foods, a group code identifying each the Food Group into which the foods are classified, and a nutrient amount contained in per unit of the food (Kuch; col. 9, line 65 to col. 10, line 5),

v. said server including: image data receiving means for receiving an image data of the previous meal transmitted from the remote terminal means (Kuch; col. 7, lines 47-51 and lines 57-68);

vi. meal analysis assisting means which provides the image data in addition to the food-nutrient table in order to assist analyzing the image data to determine the kinds of the foods contained in the previous meal, classifying the foods into the corresponding Food Groups (Kuch; col. 8, lines 15-19), and calculating the nutrient amount for each of the Food Groups with reference to the food-nutrient table (Kuch; col. 8, lines 28-33 and 57-64);

vii. meal selecting means which compares the calculated nutrient amount for each Food Group with the prescribed nutrient amount from the dieter table for determining a deficient nutrient amount for each Food Group, and selects a plurality of next meals containing the foods

Art Unit: 3626

compensating for the deficient nutrient amount for each Food Group with reference to the meal-food table and the food-nutrient table (Kuch; col. 10, lines 12-20);

viii. meal proposal means which proposes a menu listing the selected next meal or meals received from the meal selecting means to the remote terminal means over the communication network (Kuch; col. 10, lines 21-28 and col.7, lines 29-31).

Kuch fails to expressly teach the an identification code and a network address, per se, since it appears that Kuch is more directed to dietary restrictions of the individual user. However, this feature is well known in the art, as evidenced by Scroggie et al. In particular, Scroggie et al. discloses a system and method for providing shopping aids and incentives to customers through a computer network wherein customer supply a customer identification number (Scroggie et al.; par. 0017) and the consumer is required to enter a valid electronic mail (e-mail) (Scroggie et al.; par. 0038)

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined the identification code and a network address with the dietary restrictions of the individual user with the motivation of security reasons and so that the system

may receive more targeted incentives (Scroggie et al.; par. 0004 and 0038).

B. As per claim 2, Kuch discloses the system as set forth in claim 1, wherein said meal analysis assisting means is linked to an analyst terminal to provide the image data of the previous meal, the meal-food table, and the food-nutrient table so that an analyst operating said analyst terminal can analyze the previous meal and transmit the resulting meal analysis to the server for selection of the next meals (Kuch; col. 10, lines 30-44).

C. As per claim 3, Kuch discloses the system as set forth in claim 1, wherein

- i. said food-nutrient table stores individual amounts of nutrient constituents in relation to the foods having the nutrient constituents so that the sum of the amounts of the nutrient constituents equals to the nutrient amount for each of the foods (Kuch; col. 9, lines 4-14), and
- ii. said meal analysis assisting means assists to sum up the amount of the nutrient constituents with reference to the food-nutrient table for obtaining the nutrient amount for each of the Food Groups (Kuch; col. 8, lines 15-33).

D. As per claim 8, Kuch discloses the system as set forth in claim 2,

- i. said server further includes a meal verification means which is linked to an advisor terminal for requesting verification of the selected next meals from an advisor operating the advisor terminal (Kuch; col. 10, lines 30-44),

Art Unit: 3626

ii. said meal verification means providing the dieter table, the meal analysis, and the selected next meals to the advisor terminal for assisting the verification in consideration of the information about the dieter and the meal analysis result (Kuch; col. 8, lines 15-33), and

iii. said meal verification means responding to the verification from the advisor terminal to limit the selected next meals to those verified (Kuch; col. 10, lines 45-51).

E. As per claim 9, Kuch discloses the system as set forth in claim 8, wherein said analyst terminal and said advisor terminal are combined into a single counselor terminal (Kuch; col. 8, lines 15-33).

F. As per claim 19, Kuch discloses the system as set forth in claim 1, wherein

i. said database further includes a meal image table storing a meal code identifying the meal and a photo image of the meal (Kuch; col. 5, line 67 to col. 6, line 3),

ii. said meal proposal means relating the selected next meals to the photo image of the corresponding meal with reference to the meal image table and presenting the photo images together with the menu of the next meals (Kuch; col. 5, line 67 to col. 6, line 3).

E. As per claim 20, Kuch discloses the system as set forth in claim 1, wherein

i. said meal analysis assisting means prepares an analysis report identifying the deficient nutrient amount of each Food Group with regard to the previous meal (Kuch; col. 11, lines 57-61),

Art Unit: 3626

- ii. said server including a report means which provides the analysis report to the remote terminal means together with the menu of the next meals (Kuch; col. 11, lines 57-61).

F. As per claim 23, Kuch discloses a meal advice system for dieters each equipped with a remote terminal means, said system comprising: a meal advice center having a server linked to a database and linked through a communication network to said remote terminal means to exchange the information about a meal, said database including: a dieter table storing, for each of the individual dieters, an identification code, a network address, and a prescribed nutrient amount for each of Food Groups into which foods are categorized according to the nutrients a meal-food table storing the names of the meals and names of foods contained in the meals; a food-nutrient table storing the names of the foods, a group code identifying each Food Group into which the foods are classified, and a nutrient amount contained in per unit of the food, said server including: meal selecting means which compares a nutrient amount obtained by analysis of a previous meal eaten by the dieter for each Food Group, with the prescribed nutrient amount given from the dieter table for determining a deficient nutrient amount for each Food Group, and selects a plurality of next meals containing the foods compensating for the deficient nutrient amount for each Food Group with reference to the meal-food table and the food-nutrient table; and meal proposal means which proposes a menu listing the selected next meal

or meals received from the meal selecting means to the remote terminal means over the communication network.

Since claim 23 repeats the limitations of claim 1 respectively, the rejections for claim 1 are used for rejection of claim 23, and therefore claim 23 is rejected as addressed above in the rejection of claim 1 and incorporated herein.

4. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuch (U.S. Patent No. 5,454,721) in view of Tamura et al. (U.S. Patent Publication No. 2002/0048455 B1).

A. As per claim 4, Kuch discloses the system as set forth in claim 1, wherein

- i. the remote terminal means is composed of a personal mobile terminal adapted to be carried by the dieter, and a meal assistant terminal adapted to be used by a meal assistant who serves the meal to the dieter (Kuch; col. 7, lines 8-32),
- ii. said personal mobile terminal having a camera for taking the image of the previous meal, and a transmitter for sending the image, and
- iii. said meal assistant terminal having a data receiving means for receiving the menu from the server and displaying the menu (Kuch; col. 7, lines 47-56).

Kuch fails to expressly teach the a camera for taking the image of the previous meal, and a transmitter for sending the image, per se, since it appears that Kuch is more directed to image storage

Art Unit: 3626

system which stores up to 56,000 individual images (Kuch; col. 7, lines 47-51). However, this feature is well known in the art, as evidenced by Tamura et al.

In particular, Tamura et al. discloses an electronic camera with image printing system wherein camera transmits image information (Tamura et al.; par. 0020).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined to image storage system with electronic camera, which transmits image with the motivation of transmitting after making the image information (Tamura et al.; par. 0019).

B. As per claim 5, Kuch discloses the system as set forth in claim 1, wherein

- i. said image data receiving means is capable of receiving a comment by the dieter relating to the previous meal together with the image data of the previous meal, and
- ii. said meal analysis assisting means provides the comment for the analysis of the previous meal (Kuch; col. 11, lines 57-61).

The obviousness of modifying the teaching of Kuch to include the image storage system with electronic camera, which transmits image (as taught by Tamura et al.) is as addressed above in the rejection of claim 4 and incorporated herein.

C. As per claim 6, Kuch discloses the system as set forth in claim 5, wherein said comment is superimposed on the image data which is a photo image of the previous meal.

The obviousness of modifying the teaching of Kuch to include the image storage system with electronic camera, which transmits image (as taught by Tamura et al.) is as addressed above in the rejection of claim 4 and incorporated herein.

D. As per claim 7, Kuch discloses the system as set forth in claim 5, wherein said comment is transmitted as a voice data attached to the image data which is a photo image of the previous meal (Kuch; col. 7, lines 8-31).

The obviousness of modifying the teaching of Kuch to include the image storage system with electronic camera, which transmits image (as taught by Tamura et al.) is as addressed above in the rejection of claim 4 and incorporated herein.

5. Claims 10-12, 18, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuch (U.S. Patent No. 5,454,721) and Scroggie et al. (U.S. Patent Publication No. 2002/0120496 A1) as applied to claim 2 above, and further in view of Mellinger (U.S. Patent No. 4,951,197).

A. As per claim 10, Kuch discloses the system as set forth in claim 2, wherein

i. said database further includes a meal history table storing, with regard to each of the dieters, the names of the meals eaten by the dieter together with a date of the meal eaten (Kuch; col. 10, lines 30-44),

ii. said meal verification means providing the meal history table to the advisor terminal for assisting the verification of the meals (Kuch; col. 8, lines 15-33).

Kuch and Scroggie et al. fail to expressly teach the names of the meals eaten by the dieter together with a date of the meal eaten, per se, since it appears that Kuch is more directed to store data relating to images. However, this feature is well known in the art, as evidenced by Mellinger.

In particular, Mellinger discloses a weight management system wherein a journal is given to the participant to record the amount of food and drink consumed during the day. (Mellinger; col. 6, line 63 to col. 7, line 3).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined to storing data relating to images with record the amount of food and drink consumed during the day with the motivation of obtain an accurate and detailed analysis of past week and encourages the participant to be aware of the quantities of food consumed during the day.

(Mellinger; col. 6, line 63 to col. 7, line 3).

B. As per claim 11, Kuch discloses the system as set forth in claim 2, wherein said database includes a magnification table storing a dieter code, the name of the meal eaten by the dieter, and a magnification of the meal as determined

based upon the image data thereof in relation to a standard size; said meal analysis assisting means providing the magnification table to the analyst terminal in order to assist re-analyzing the past meal in such a manner as to multiply the amounts of the food contained in the past meal by the magnification (Kuch; col. 10, lines 30-44).

The obviousness of modifying the teaching of Kuch to include the record the amount of food and drink consumed during the day (as taught by Mellinger) is as addressed above in the rejection of claim 10 and incorporated herein.

C. As per claim 12, Kuch discloses the system as set forth in claim 1.

Kuch and Scroggie et al. fail to expressly teach the names of the meals eaten by the dieter together with a date of the meal eaten and comparing the next meals provided by the meal selecting means with the meals stored in the meal history table and having the date within a predetermined past period in order to extract the meals not duplicating the meals in the predetermined past period, and presenting the menu of thus extracted meals, per se, since it appears that Kuch is more directed to store data relating to images. However, this feature is well known in the art, as evidenced by Mellinger.

In particular, Mellinger discloses a weight management system wherein a journal is given to the participant to record the amount of food and drink consumed during the day. (Mellinger; col. 6, line 63 to col. 7, line 3).

Art Unit: 3626

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined to storing data relating to images with record the amount of food and drink consumed during the day with the motivation of obtain an accurate and detailed analysis of past week and encourages the participant to be aware of the quantities of food consumed during the day. (Mellinger; col. 6, line 63 to col. 7, line 3).

C. The obviousness of modifying the teaching of Kuch to include the record the amount of food and drink consumed during the day (as taught by Mellinger) is as addressed above in the rejection of claim 10 and incorporated herein.

D. As per claim 18, Kuch discloses the system as set forth in claim 1, wherein

- i. said database further includes a meal history table storing, with regard to each of the dieters, the names of the meals eaten by the dieter (Kuch; col. 11, line 62 to col. 12, line 3),
- ii. said meal analysis assisting means providing the meal history table in order to assist to sum the nutrient amount for each Food Group with regard to the two immediately previous meals eaten as the breakfast and the lunch, and said meal proposal means proposing the menu listing the next meals to be eaten as the dinner (Kuch; col. 11, lines 57-61).

The obviousness of modifying the teaching of Kuch to include the record the amount of food and drink consumed during the day (as taught by Mellinger) is as addressed above in the rejection of claim 10 and incorporated herein.

E. As per claim 21, Kuch discloses the system as set forth in claim 1, wherein

The obviousness of modifying the teaching of Kuch to include the record the amount of food and drink consumed during the day (as taught by Mellinger) is as addressed above in the rejection of claim 10 and incorporated herein.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuch (U.S. Patent No. 5,454,721) and Scroggie et al. (U.S. Patent Publication No. 2002/0120496 A1) as applied to claim 1 above, and further in view of Ogasawara (U.S. Patent Publication No. 2001-0018671 A1).

A. As per claim 22, Kuch and Scroggie et al. disclose the system as set forth in claim 1.

Kuch and Scroggie et al. fail to expressly teach placing the order to the caterer, per se, since it appears that Kuch is more directed to life-size images of the food and a list of recipes (Kuch; col. 6, lines 36-41) (Scroggie et al.; par. 0006). However, this feature is well known in the art, as evidenced by Ogasawara.

In particular, Ogasawara discloses a workplace shopping system and merchandise picking system, and shopping method and picking method thereof wherein the merchandise may include perishable foods and name and address information. (Ogasawara; abstract and par.0092).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined life-size images of the food and a list of recipes with shopping method and picking method thereof with the motivation of merchandise delivered is very convenient and effective (Ogasawara; abstract and par.0006).

7. Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuch (U.S. Patent No. 5,454,721) and Scroggie et al. (U.S. Patent Publication No. 2002/0120496 A1) Mellinger (U.S. Patent No. 4,951,197) as applied to claim 10 above, and further in view of Abrams et al. (U.S. Patent No. 5,673,691).

A. As per claim 13, Kuch discloses the system as set forth in claim 1.

The obviousness of modifying the teaching of Kuch to include the record the amount of food and drink consumed during the day (as taught by Mellinger) is as addressed above in the rejection of claim 10 and incorporated herein.

Kuch, Scroggie et al. and Mellinger fail to expressly teach the date of one year before, per se, since it appears that Kuch Scroggie et al. and Mellinger are more directed to meal planning daily and weekly. However, this feature is well known in the art, as evidenced by Abrams et al.

In particular, Abrams et al. discloses apparatus to control diet and weight using human behavior modification techniques wherein

Art Unit: 3626

weekly summary information are stored for two years in the user database. (Abrams et al.; col.11, lines 60-62)

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined meal planning daily and weekly with weekly summary information are stored for two years in the user database with the motivation of using these information for analysis and feedback to the user (Abrams et al.; col.11, lines 62-64).

B. As per claim 14, Kuch discloses the system as set forth in claim 1, wherein

The obviousness of modifying the teaching of Kuch to include the record the amount of food and drink consumed during the day (as taught by Mellinger) is as addressed above in the rejection of claim 10 and incorporated herein.

The obviousness of modifying the teaching of Kuch to include weekly summary information stored for two years in the user database (as taught by Abrams et al.) is as addressed above in the rejection of claim 13 and incorporated herein.

Kuch, Mellinger and Abrams et al. fail to expressly teach the local regions to which the dieter belongs, per se, since it appears that Kuch Mellinger and Abrams et al. are more directed remote workstations. However, this feature is well known in the art, as evidenced by Scroggie et al.

In particular, Scroggie et al. discloses a system and method for providing shopping aids and incentives to customers through a computer network wherein at log-in time the user is required to enter his/her zip code (Scroggie et al. ; par.0040).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have combined remote workstations with user's zip code with the motivation of location dependent features (Scroggie et al. ; par.0040).

C. As per claim 15, Kuch discloses the system as set forth in claim 1, wherein

- i. said meal proposal means comparing the set of the extracted meals with the meals which are stored in the meal history table with regard to other dieters having the same local code and which have date records within a predetermine time range around the same date of one year before, providing a second score to the extracted meals duplicating the meals of the other dieters occurring in the time range, said second score having different points than the first score (Kuch; col. 11, line 62 to col. 12, line 11),
- ii. said meal proposal means counting the points given to the extracted meals and sorting the same in a descending order of the scored points, and presenting the menu of the next meals thus sorted (Kuch; col. 11, line 62 to col. 12, line 11).

The obviousness of modifying the teaching of Kuch to include the record the amount of food and drink consumed during the day (as taught by Mellinger) is as addressed above in the rejection of claim 10 and incorporated herein.

The obviousness of modifying the teaching of Kuch to include the record the zip code of the user (as taught by Scroggie et al.) is as addressed above in the rejection of claim 14 and incorporated herein.

The obviousness of modifying the teaching of Kuch to include weekly summary information stored for two years in the user database (as taught by Abrams et al.) is as addressed above in the rejection of claim 13 and incorporated herein.

D. As per claim 16, Kuch discloses the system as set forth in claim 15, wherein said first score has a higher point than the second score (Kuch; col. 11, line 62 to col. 12, line 11).

E. As per claim 17, Kuch discloses the system as set forth in claim 15, wherein said meal proposal means selects the predetermined number of the next meals having the higher points (Kuch; col. 11, line 62 to col. 12, line 11).

Art Unit: 3626

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not used prior art teach Method, system and program for specifying an electronic menu with food preferences from a personal storage device 6618062 B1, Method and system for planning customized menu 2001/0025279 A1, Process for controlling body weight 6040531 A, Method for determining diet program effectiveness 5639471 A.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DBC

DBC

Art Unit 3626, 12/29/2005


C. LUKE GILLIGAN
PATENT EXAMINER